

Senate Bill No. 1558

CHAPTER 263

An act to amend Section 4061 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 2002. Filed with
Secretary of State August 26, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1558, Figueroa. Dangerous drug or dangerous device samples.

Existing law, the Pharmacy Law, prohibits a manufacturer's sales representative from distributing a complimentary dangerous drug or dangerous device sample without the written request of a physician and surgeon or other specified healing arts practitioner. Under existing law, a certified nurse-midwife, a nurse practitioner, or a physician assistant may sign for the delivery or receipt of a sample requested by the supervising physician and surgeon.

This bill would additionally authorize a certified nurse-midwife, a nurse practitioner, and a physician assistant to sign for the request and receipt of complimentary samples that have been identified in the standardized procedure, protocol, or practice agreement that has been approved by a physician.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 4061 of the Business and Professions Code is amended to read:

4061. (a) No manufacturer's sales representative shall distribute any dangerous drug or dangerous device as a complimentary sample without the written request of a physician, dentist, podiatrist, or veterinarian. However, a certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, or a physician assistant who functions pursuant to a protocol described in Section 3502.1, may sign for the request and receipt of complimentary samples of a dangerous drug or dangerous device that has been identified in the standardized procedure, protocol, or practice agreement. Standardized

procedures, protocols, and practice agreements shall include specific approval by a physician. A review process, consistent with the requirements of Section 2725 or 3502.1, of the complimentary samples requested and received by a nurse practitioner, certified nurse-midwife, or physician assistant shall be defined within the standardized procedure, protocol, or practice agreement.

(b) Each written request shall contain the names and addresses of the supplier and the requester, the name and quantity of the specific dangerous drug desired, the name of the certified nurse-midwife, nurse practitioner, or physician assistant, if applicable, receiving the samples pursuant to this section, the date of receipt, and the name and quantity of the dangerous drugs or dangerous devices provided. These records shall be preserved by the supplier with the records required by Section 4059.

(c) Nothing in this section is intended to expand the scope of practice of a certified nurse-midwife, nurse practitioner, or physician assistant.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that appropriate health care practitioners may sign for the request and receipt of pharmaceutical samples that provide immediate and necessary medication to patients who have difficulty filling their prescriptions for many reasons, it is necessary that this act take effect immediately.

